



U.S. Department of Justice

*United States Attorney
Southern District of New York**86 Chambers Street
New York, New York 10007*

July 21, 2025

BY ECF

Hon. Denise L. Cote
United States District Court
Southern District of New York
500 Pearl Street, Room 1610
New York, New York 10007

**Re: *New York Times & Khan v. U.S. Department of Defense*,
22 Civ. 9481 (DLC)**

Dear Judge Cote:

I write respectfully on behalf of Defendant the United States Department of Defense (“DoD”) in this action brought pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), to update the Court on the status of DoD’s processing of the respective FOIA requests in this matter.

This case concerns four FOIA requests submitted by Azmat Khan (“Khan”), a reporter with The New York Times (collectively, “Plaintiffs”), seeking records from three DoD components relating to reported civilian casualties from military operations. Khan submitted one FOIA request to the United States Africa Command (“AFRICOM”), two requests to the United States Central Command (“CENTCOM”), and one request to the United States Army (“Army”).

1. The Baghuz Requests to Army and CENTCOM

Two of the FOIA requests at issue in this case—the request submitted to Army and one of the two requests submitted to CENTCOM—concern a civilian casualty incident in Baghuz, Syria on March 18, 2019. The Secretary of Defense tasked U.S. Army General Michael X. Garrett, then-commander of U.S. Army Forces Command, to conduct an independent review of the incident, which was completed in late 2021. The FOIA request to Army seeks General Garrett’s report and the evidentiary materials he considered. Those records were gathered by the Army and referred to CENTCOM for processing.¹ CENTCOM previously produced General Garrett’s report, with redactions of information determined to be exempt from disclosure under one or more FOIA exemptions, and then processed the evidentiary materials for CENTCOM

¹ The parties have agreed that CENTCOM will hold the separate CENTCOM request regarding the Baghuz incident in abeyance pending its processing of the records responsive to the Army request.

equities at a rate of 150 pages every 60 days.² CENTCOM completed its internal processing of the last set of evidentiary records in February 2025. Although CENTCOM has completed processing of responsive records for CENTCOM equities, many of those records were referred to other agencies or DoD components for consultation. As responses to the outstanding consultation requests are received, CENTCOM will make supplemental productions of non-exempt records. Since the last status report, CENTCOM received material back from a consultation request, which CENTCOM is processing. CENTCOM expects to release any non-exempt material from this consultation in early August.

2. The CENTCOM Payments Request

The second FOIA request to CENTCOM sought records concerning certain condolence or *ex gratia* payments referred to in a DoD report or congressional correspondence, as well as records concerning the underlying incidents that led to the payments. CENTCOM located three responsive records and produced the non-exempt portions of those records on October 31, 2023. CENTCOM has completed its response to this FOIA request.

3. The AFRICOM Request

The FOIA request to AFRICOM seeks records concerning 37 alleged incidents of civilian casualties. As previously reported to the Court, AFRICOM identified 174 potentially responsive records, comprising approximately 1200 pages. AFRICOM made its final production of responsive, non-exempt records in March 2025. AFRICOM has completed its response to this FOIA request.

We thank the Court for its consideration of this letter. DoD respectfully proposes to submit a further status report within 60 days, or by September 19, 2025.

Respectfully,

JAY CLAYTON
United States Attorney

By: /s/ Pierre G. Armand
PIERRE G. ARMAND
Assistant United States Attorney
Telephone: (212) 637-2724
Email: pierre.armand@usdoj.gov
Counsel for Defendant

Granted.
/s/ Pierre G. Armand
7/27/25

² This does not include any consultations with other DoD components or agencies that may be required.